

arm such that when the pivot arm rotates about the pivot point the drill follows a defined arcuate cutting path.

117. (ADDED) The method of claim 116 wherein the drill includes a curved drilling element.

118. (ADDED) The method of claim 117 wherein the curved drilling element comprises a curved cannula, a flexible member disposed within the curved cannula, and a cutting burr affixed to an end of the flexible member, the flexible burr for cutting an arcuate aperture in each of the adjacent vertebrae.

119. (ADDED) The method of claim 116 wherein the step of forming includes rotating the pivot arm so that a through aperture is formed in one of the adjacent vertebrae and so a partially formed (i.e., non-through aperture) is formed in the other of the adjacent vertebrae.

120. (ADDED) The method of claim 116 wherein the step of forming includes rotating the pivot arm so that a through aperture is formed in each of the adjacent vertebrae.

REMARKS

Applicants respectfully request that the subject PCT national stage application be preliminarily amended as provided in the foregoing amendment prior to calculation of the filing fees. Applicants also respectfully request the Examiner to consider the foregoing amended claims in the first Office Action on the merits.

The claims were amended so as to cancel those claims duplicative with U.S.S.N. 09/ 536,772 as well as to include new/ added claims directed to the new subject matter in the PCT application. The original filed disclosure supports the claim amendments.


Included herewith is a marked-up version of the amendments to the subject application by the current amendment. The marked-up versions are found on the pages captioned or entitled "Details of Amendments" that follow the signature page of the within Response.

It is respectfully submitted that the subject application is in a condition for allowance. Early and favorable action is requested.

Applicants believe that additional fees are not required for consideration of the within Preliminary Amendment. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge Deposit Account No. **04-1105**.

Respectfully submitted,
EDWARDS & ANGELL, LLP
DIKE, BRONSTEIN, ROBERTS & CUSHMAN
Intellectual Property Practice Group

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By: 
William J. Daley, Jr.
(Reg. No. 35,487)
P.O. Box 9169
Boston, MA 02209
(617) 439- 4444